

Chairman and members of the Legislature, the situation we are confronted with here is one that is not covered by the regulation that Senator Landis handed us. We are not talking about a situation where a person is being granted a loan based on his or her ability to pay but where property is going to be used as the means to liquidate the loan and the bank wants to have a security interest in that property without any document establishing the existence of a security interest. The law, Senator Landis, that deals with secured and unsecured transactions is not designed to allow a debtor to get out of paying somebody. It is designed to make all lenders cautious. It is saying that if you loan this person something of value and you want to have a right to property held by that person as a means to satisfy that loan, you go through certain steps like file this statement and establish the security interest. Then if somebody else loans that person money whether they knew about your interest or not they could have found out and if it becomes necessary to move against that property, whoever got the security interest first is the one who has first claim on the property. But we have a situation here where the banker is required not even to exercise prudence because he knows that this person is owning property in joint tenancy of a value in excess of the loan. So without determining whether there is any other means or any likelihood that the borrower will pay back he will grant that loan and be sure of recouping it when that joint tenant dies and the property passes to the survivor. The law has created joint tenancy with right of survivorship for a purpose. The purpose, I would agree with Senator Landis, is not to allow a person not to pay his or her debts, but we do not want to create a law by passing 306 which takes from the bankers the requirement of being prudent and we also don't want to create a situation where...remember this. Partners can be involved in joint tenancy too so it is not just spouses and a partner can rip off another. Take this example, the one I was trying to give when Senator Marsh gave me a chance to explain of the wife agreeing to forego certain things in exchange for this joint tenancy. Well let's say that they enter into that when situations are fairly decent, then things get very bad and the man tells her, I'm going to go get a loan from Mr. Brandt and when I die, I'm not going to pay the loan back, and when I die he is going to take up to 50% of this property from you...

PRESIDENT: One minute, Senator Chambers.

SENATOR CHAMBERS: ...and there is nothing you can do to stop him and she says, but I didn't even sign the loan. He says, you don't have to sign the loan. Thanks to Senator Beutler and twenty-four other members of the Legislature